

Message Text

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E.O. 11652: GDS

TAGS: PSOR, FR, GW, UR, US, UK, WB

SUBJECT: SOVIET PROTEST ON EXTENSION TO BERLIN OF LAW ON
INNER-GERMAN COOPERATION ON CRIMINAL CASES.

REF: A. MOSCOW 16370; B. MOSCOW 17952

1. MFA USA DIVISION COUNSELOR SOKOLOV CALLED IN ACTING
POLITICAL COUNSELOR FEBRUARY 27 AND READ HIM ORAL STATEMENT
ON BERLIN, WHICH WAS REPLY TO OUR NOVEMBER 27 REPLY OF ORIGINAL
SOVIET OCTOBER 25 PROTEST. EMBOFF SAID U.S. ADHERED TO
POSITION EXPRESSED IN NOVEMBER 27 STATEMENT. SOKOLOV DID NOT
COMMENT FURTHER. WE ARE ENCOURAGED BY THE LOWER-THAN-USUAL
LEVEL OF THIS SOVIET DEMARCHE AND HOPE IT MAY BECOME
PRECEDENT. BRITISH RECEIVED SIMILAR PROTEST AT DCM/DEPUTY
DIRECTOR LEVEL; FRENCH HAVE NOT YET BEEN CALLED IN.

2. TEXT FOLLOWS. BEGIN TEXT. IN CONNECTION WITH THE COMMUNICATION
OF THE AMERICAN SIDE DATED NOVEMBER 27, 1974, THE SOVIET SIDE
WOULD WISH TO DRAW ATTENION TO THE FOLLOWING:
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(1) AS IS APPARENT FROM THE COMMUNICATION OF THE AMERICAN

SIDE, THE FEDERAL LEGAL CHAMBER IS CARRYING OUT OFFICIAL ACTS IN THE WESTERN SECTORS OF BERLIN. BY THIS ALONE IT IS ADMITTED IN PRACTICE THAT IN THE WESTERN SECTORS OF BERLIN AN IMPORTANT PROVISION OF THE QUADRIPARTITE AGREEMENT OF SEPTEMBER 3, 1971, WHICH FORBIDS SUCH ACTIVITY BY FEDERAL ORGANS IN RELATION TO THE WESTERN SECTORS OF BERLIN, IS BEING VIOLATED IN PRINCIPLE.

THE REFERENCES OF THE AMERICAN SIDE TO THE FACT THAT THE FEDERAL LEGAL CHAMBER IN THE WESTERN SECTORS OF BERLIN CAN APPLY ONLY WEST BERLIN LEGISLATION AND ACTS UNDER THE CONTROL OF THE AUTHORITY OF THE THREE POWERS DOES NOT CHANGE THE ESSENCE OF THE MATTER. AS IS KNOWN, THE FRG AND ITS STATE ORGANS CANNOT GOVERN THE WESTERN SECTORS OF BERLIN, NOR EXERCISE DIRECT STATE AUTHORITY IN THAT CITY. THE FEDERAL LEGAL CHAMBER CAN IN NO CIRCUMSTANCES HAVE THE RIGHT TO RESCIND DECISIONS OF THE WEST BERLIN COURTS AND IN GENERAL CAN IN NO WAY WHATEVER INTERFERE IN QUESTIONS OF THE LEGAL PROCESS IN THE WESTERN SECTORS OF BERLIN.

(2) THE SOVIET SIDE WOULD LIKE PARTICULARLY TO DWELL ON THE ATTEMPT OF THE AMERICAN SIDE TO JUSTIFY THE ILLEGAL ACTIVITY OF THE FEDERAL LEGAL CHAMBER IN THE WESTERN SECTORS OF BERLIN THROUGH REFERENCES TO THE PRACTICE WHICH EXISTED PRIOR TO THE ENTRY INTO FORCE OF THE QUADRIPARTITE AGREEMENT OF SEPTEMBER 3, 1971. SUCH ARGUMENTATION DOES NOT STAND UP TO ANY KIND OF CRITICISM. IT IS NOT DIFFICULT TO IMAGINE HOW EVENTS WOULD DEVELOP IF EACH OF THE PARTIES TO THE QUADRIPARTITE AGREEMENT WERE TO BE GOVERNED IN THEIR ACTIONS BY THE PRACTICE WHICH EXISTED BEFORE THE QUADRIPARTITE AGREEMENT. IT IS COMPLETELY APPARENT THAT IN THIS CASE THE NORMAL FUNCTIONING OF THE QUADRIPARTITE AGREEMENT WOULD BE PLACED IN QUESTION AND ITS BASIS WOULD BE UNDERMINED.

THE SOVIET SIDE STRICTLY AND FULLY FULFILLS THE OBLIGATIONS WHICH IT HAS ASSUMED UNDER THE QUADRIPARTITE AGREEMENT. IT IS NATURALLY TO BE EXPECTED THAT THE THREE OTHER PARTIES TO THE QUADRIPARTITE AGREEMENT WILL CONDUCT THEMSELVES IN AN ANALOGOUS MANNER. THE AGREEMENT OF THE AUTHORITIES OF THE THREE POWERS TO THE ENTRY INTO FORCE IN THE SECTORS OF WEST BERLIN OF THE LAW ON CHANGES TO THE LAW

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OF 1953, ON THE SO-CALLED INNER-GERMAN LEGAL AID TO CRIMINAL CASES, CONTRADICTS THE OBLIGATIONS THE UNITED STATES HAS TAKEN UPON ITSELF UNDER THE QUADRIPARTITE AGREEMENT AND

IN ESSENCE CONSTITUTES APPROVAL OF ACTIONS AIMED AT ITS UNDRMINGING.

THE SOVIET SIDE EXPRESSES THE HOPE THAT THE AMERICAN SIDE

WILL DRAW THE NECESSARY CONCLUSIONS FROM THIS COMMUNICATION
AND WILL TAKE EFFECTIVE MEASURES TO PREVENT THE VIOLATION OF
THE QUADRIPARTITE AGREEMENT. THE SOVIET SIDE AGAIN, WITH ALL
SERIOUSNESS, STRESSES THAT THE QUADRIPARTITE AGREEMENT CAN
FUNCTION NORMALLY ONLY UNDER CONDITIONS WHEN ALL ITS PARTIES
STRICTLY ADHERE TO IT BOTH IN SPIRIT AND IN LETTER. END TEXT.

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